



**THE ATTORNEY GENERAL
OF TEXAS**

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AUSTIN 11, TEXAS

March 14, 1955

Hon. Dorsey B. Hardeman, Chairman
Senate State Affairs Committee
54th Legislature
Austin, Texas

Letter Opinion No. MS-186

Re: Constitutionality of Senate Bill
218 of the 54th Legislature

Dear Mr. Hardeman:

You have requested an opinion on the constitutionality of Senate Bill 218 of the 54th Legislature. Your specific questions concern whether it violates the provisions of Sections 35 and 36 of Article III of the Constitution of Texas.

Section 35 of Article III of the Constitution of Texas provides:

"No bill [except general appropriation bills, which may embrace the various subjects and accounts, for and on account of which moneys are appropriated] shall contain more than one subject, which shall be expressed in its title. But if any subject shall be embraced in an act, which shall not be expressed in the title, such act shall be void only as to so much thereof, as shall not be so expressed."

Section 36 of Article III of the Constitution of Texas provides:

"No law shall be revived or amended by reference to its title; but in such case the act revived, or the section or sections amended, shall be re-enacted and published at length."

Section 1 of Senate Bill 218 provides that all patients admitted to a State hospital for the insane or mentally ill for the first time shall be admitted under the provisions of certain existing laws listed in Section 1.

Section 2 provides that all persons committed to a State hospital for the insane or mentally ill for the first time shall be committed under the provisions of acts listed under Section 2.

Section 3 provides for examination of persons committed to a State hospital for the insane or mentally ill by the hospital staff, provides that a certified copy of their opinion and findings shall be mailed to the judge of the committing county court and provides that such findings shall be admitted in evidence at any subsequent trial or hearing as to the mental state of such person.

The caption of Senate Bill 218 provides:

"An Act providing for initial admissions to State Mental Hospitals; providing that findings of hospital staff be admitted in evidence; providing that notification as to findings be given county court; providing for partial invalidity; and declaring an emergency."

The purpose of Section 35 of Article III of the Constitution of Texas is merely to reasonably apprise the Legislature of the contents of the bill to the end that surprise and fraud may be prevented. It is not required that the caption set forth a full index to all the contents of the law or set forth the full details of the bill. Central Education Agency v. Independent School District of the City of El Paso, 152 Tex. 254 S.W.2d 357 (1953); Gulf Insurance Co. v. James, 143 Tex. 424, 185 S.W.2d 966 (1945).

It is noted that the caption provides for the initial admission to State mental hospitals. No reference is made in the caption to the commission of persons to State mental hospitals. Since the body of the Bill makes a distinction between persons admitted to a State hospital for the insane or mentally ill and a person committed to a State hospital for the insane or mentally ill, the caption must provide for both the voluntary initial admission and the initial commission of persons to a State hospital for the insane or mentally ill. It is not certain that the phrase "initial admissions" includes both voluntary admissions and involuntary commissions. This doubt can be removed by adding the words "and commissions" in the caption.

In determining whether the provisions of Section 1 and Section 2 of Senate Bill 218 constitute an amendment by reference prohibited by the provisions of Section 36 of Article III of the Constitution of Texas, it was pointed out in Clark v. Finley, 93 Tex. 177, 54 S.W. 343 (1899):

"That article provides that 'no law shall be revived or amended by reference to its title; but in such case the act revived or the section or sections amended shall be re-enacted and published at length.' A similar question was certified for

the decision of this court in the case of *Snyder v. Compton*, 87 Tex. 374, 28 S.W. 1061, and in disposing of it the court say: 'It is not meant by this provision that every act which amends the statutory law shall set out at length the entire law as amended. Under such a rule, legislation would in many instances be impracticable. This is especially the case in this State, where the existence of the common law is due to statutory enactment. The practice which it was the purpose of the provision in question to prohibit was that of amending a statute by referring to its title, and by providing that it should be amended by adding to or striking out certain words, or by omitting certain language and inserting words, or by omitting certain language and inserting in lieu thereof certain other words. It was not intended to prohibit the passage of a law which declared fully its provisions without direct reference to any other act, although its effect should be to enlarge or restrict the operation of some other statutes. Similar provisions in other constitutions have been construed not to apply to implied amendments.' There is no attempt in the act in question to amend any law 'by reference to its title,' and hence it would seem that section 36 has no application whatever."

Likewise, it was stated in *State v. South Western Gas and Electrical Company*, 145 Tex. 24, 193 S.W.2d 675 (1946) that the provisions of Section 36 of Article III of the Constitution of Texas do not apply to legislative enactments which are complete within themselves even though their effect may be to amend some other law.

It is our opinion that Senate Bill 218 does not constitute an amendment by reference within the meaning of Section 36 of Article III of the Constitution of Texas since it is not amending any statute by reference to its title but is merely restricting the application of existing laws and is complete within itself.

Yours very truly

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By 
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